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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,962	09/11/2003	John J. LaFond	930038-2033	5882
20999	7590	10/13/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			HUG, ERIC J	
			ART UNIT	PAPER NUMBER

1731

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/659,962	LAFOND ET AL.	
	Examiner	Art Unit	
	Eric Hug	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-38 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12, 14, 17-20 and 22-25 is/are rejected.
- 7) ☒ Claim(s) 5, 11, 13, 15, 16, 21, 26 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is in response to the amendment filed on August 9, 2006.

Claim Rejections - 35 USC § 112

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "long float" in claims 1 and 17 is a relative term which renders the claims indefinite. The term "long float" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. A "float" is defined in the art as being where a weft yarn passes over two or more warp yarns. It is uncertain what constitutes a "long float".

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6-10, 12, 14, 17-20, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gulya et al (US 5,839,479) in view of Karm (US 4,171,009).

Gulya discloses a papermaking forming fabric that imparts bulk to a paper web. The fabric comprises a system of MD (warp direction) filaments interwoven with a system of CD (weft direction) filaments, wherein the system of CD filaments has larger and smaller diameters defining a plane difference in the forming surface of the fabric. See column 2, lines 64 to

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column 3, line 3. The larger diameter CD filaments (24) define sheet side floats of at least four filaments and the smaller diameter yarns (22) define floats of at least three filaments. This provides the fabric with bulking depressions. See Fig. 1a and column 3, lines 32-38.

Regarding claims 1 and 17, the fabric of Gulya differs from the claimed fabric in that it has only one layer of CD yarns as opposed to having upper and lower sets of CD yarns. However, the use of double layer fabrics instead of single layer fabrics is well-documented throughout the art, and as pointed out by Applicant, double (and triple) layer fabrics are designed for fiber support on the forming side and for stability on the wear side. If necessary, Karm is cited here as one reference in the prior art which discloses that double layer fabrics have been used instead of single layer fabrics to increase stiffness and rigidity. See, for example, column 1, lines 46-52 of Karm (US 4,171,009). Therefore, at the time of the invention it would have been obvious to one skilled in the art to modify the fabric of Gulya from a single layer fabric to a double layer fabric by including an additional set of weft yarns on the wear side in order to enhance fabric stability.

Regarding the other claims:

2, 12, and 18. These would be the modifications towards a double layer fabric as described above.

3, 4, 19, and 20. The forming fabric is for the production of bulky paper products.

6-10, 22-25. The filaments are monofilaments having a circular cross-section. The MD and CD filaments may be polyester, polyamide, vinyl, acrylic and other materials as known in the art. The filaments may be of different compositions. See column 3, lines 13-23.

14. The two different sized CD yarns alternate.

Response to Arguments

Applicant's arguments filed August 9, 2006 have been fully considered. The rejections under 35 U.S.C. 103(a) over Ahrens et al (US 5,853,547) in view of Karm (US 4,171,009), and over Ostermayer et al (US 5,817,213) in view of Karm have been overcome by amendments. It is recognized that neither Ahrens nor Ostermayer discloses top layer weft yarn floats.

Regarding Gulya above, the examiner recognizes that the fabric of the present invention and the fabric of Gulya have comparatively different float sizes of the larger and smaller weft yarns and follow different paths. It is noted that these features upon which applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, the arguments regarding the contour of large and small weft yarns are not persuasive in view of the present disclosure. Applicant defines the meaning of "same contour" with regards to Figures 4a and 4b and page 9, lines 20-30 of the specification. It is the examiner's interpretation that wefts which are positioned in different contours are aligned with their top surfaces in the same plane, whereas conversely, wefts which are positioned in the same contour are aligned with their bottom surfaces in the same plane. Gulya discloses the latter. The examiner welcomes any clarification Applicant can provide if the meaning of "same contour" has been misinterpreted.

Allowable Subject Matter

Claims 28-38 are allowed.

Claims 5, 11, 13, 15, 16, 21, 26, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 28-38 are allowed for providing at least three different types of weft yarns in the top layer defining macro-pocket areas.

Claim 5 is allowable for specifying the weave pattern of the MD yarns.

Claims 13, 15, 16, and 27 are allowable for further providing a middle layer of weft yarns.

Claims 11 and 26 are allowable for further providing twisted yarns.

Claim 21 is allowable for providing that at least two predominating warp yarns are at the same level.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vohringer (US 4,998,568) discloses a double layer papermaking fabric having three different sized paper side weft threads.

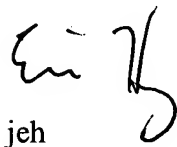
Borel (US 4,928,737) discloses a multi-layer papermaking fabric having transverse threads of different diameters.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 571 272-1192.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


jeh